

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Berner *et al.*

SERIAL No.: 10/769,574

FILED: January 29, 2004

FOR: GASTRIC RETENTIVE ORAL DOSAGE
FORM WITH RESTRICTED DRUG RELEASE IN
THE LOWER GASTROINTESTINAL TRACT

EXAMINER: Holt, Andriae M.

ART UNIT: 1616

CONFIRMATION No.: 8962

**Supplemental Information Disclosure Statement After First Office
Action but Before Final Action or Notice of Allowance 37 CFR 1.97(c)**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. Timing of Submission

The information transmitted herewith is being filed *after* three months of the filing date of this application or after the mailing date of the first Office action on the merits, whichever occurred last, but *before* the mailing date of either a final action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. §1.311, whichever occurs first. The references listed on the enclosed Form PTO-1449 (modified) may be material to the examination of this application; the Examiner is requested to make them of record in the application.

2. Cited Information

☒ Copies of references 1 - 3 are issued patents and are not included (see 37 C.F.R. § 1.98(a)(2)(i)).

☒ Copies of references 4 and 5 are enclosed.

3. Effect of Information Disclosure Statement (37 C.F.R. § 1.97(h))

This Information Disclosure Statement is not to be construed as a representation that: (i) a search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols,

results and the like reported by third parties are accurate or enabling; or (iv) the cited information is, or is considered to be, material to patentability. In addition, applicant does not admit that any enclosed item of information constitutes prior art to the subject invention and specifically reserves the right to demonstrate that any such reference is not prior art.

4. Fee Payment – 37 CFR 1.97(d)(2)

☒ Applicant elects to pay the fee under 37 CFR 1.17(p) in the amount of \$180.00.

☐ Please charge Deposit Account No. 50-4616 in the amount of \$180.00.

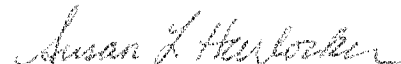
☒ The Commissioner is hereby authorized to charge any deficiency in fees to ensure timely submission of these papers to Deposit Account No. 50-4616.

5. Patent Term Adjustment (37 C.F.R. § 1.704(d))

☐ The undersigned states that each item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this statement. 37 C.F.R. § 1.704(d).

Respectfully submitted,
King & Spalding LLP

Date: April 22, 2010


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